

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Paul T. Ryan, et al.

Serial No.: 09/913,425

Filed: 08/13/2001

For: AN AUTOMATED SYSTEM FOR EXCISING PROTEINS FROM
TWO-DIMENSIONAL ELECTROPHORESIS GELS

Box PCT
Commissioner for Patents
Washington, D.C. 20231
Attention: DO/US

RECEIVED

30 JAN 2002

International Division

PETITION

PURSUANT TO 37 CFR 1.47 INVOLVING THE REFUSAL
OF A CO-INVENTOR TO EXECUTE THE POWER OF
ATTORNEY/DECLARATION

Pursuant to 37 CFR 1.47, counsel for the inventors makes the above-identified Petition according to the following facts:

1. The Patent Office has issued A Notification of Missing Requirements under 35 U.S.C. 371 in the U.S. Designated/Elected Office; (DO/EO?US) of Nonprovisional Application—Filing Date Granted, on October 17, 2001.
2. As of today's date, all of the necessary Power of Attorney documents have been executed by co-inventors Paul T. Ryan and David Byatt, but not by co-inventor Kevin Auton.
3. As of today's date, all remaining issues raised in the Notice to File Missing Parts have been addressed.
4. At the time that the above-identified application was filed, Genomic Solutions employed Mr. Auton. Sometime after the application was filed, Mr. Auton ceased his employment with Genomic Solutions. Papers showing the Assignment of the application by the inventors, including Mr. Auton, shall be filed shortly.
5. As set forth in the attached sworn Declaration under 37 C.F.R. § 1.47 of signing co-inventor Byatt, which is hereby incorporated in this Petition, Mr. Auton has

refused to sign any Declaration for the pending application. His last known home address is:

42 Croftfield Road
Godmanchester, Huntingdon,
Cambridge, PE 29 2ED
United Kingdom

37 CFR 1.47(a) notes that if a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor. It is respectfully submitted that with the submission of Combined Declaration and Power of Attorney documents from all of the other inventors, the application for patent has been appropriately made by the other inventors. Further, in view of the facts noted in the attached affidavit, it is respectfully submitted that diligent effort has been made to provide the non-signing inventor with the necessary document for signature.

Therefore, in view of the foregoing statements and accompanying Declarations/exhibits, it is respectfully submitted that a proper showing has been made pursuant to 37 CFR 1.47 to address the Notice to File Missing Parts.

Respectfully submitted,



James F. Kamp, Esq., Reg. 41,882
Christopher J. Voci, Esq., Reg. 45,184
RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue, Suite 140
Bloomfield Hills, MI 48304

Date: January 17, 2002

Customer No. 010291

Telephone No. (248) 594-0600

R0135813

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Paul T. Ryan, et al.

Serial No.: 09/913,425

Filed: 08/13/2001

For: **AN AUTOMATED SYSTEM FOR EXCISING PROTEINS FROM
TWO-DIMENSIONAL ELECTROPHORESIS GELS**

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**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER
35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE ;(DO/EO/US) OF
NON-PROVISIONAL APPLICATION**

Dear Sir:

A Notice to File Missing Parts of Non-Provisional Application was mailed on October 17, 2001. A copy of the Notice is enclosed. As indicated in the Notice, the Oath or Declaration was considered missing. The properly signed Combined Declaration and Power of Attorney in compliance with 37 CFR 1.63 is enclosed herewith for co-inventors Paul T. Ryan, and David Byatt. To date, co-inventor Kevin Auton has refused to sign the Declaration. Therefore, a Petition Pursuant To 37 CFR 1.47 Involving The Refusal Of A Co-Inventor To Execute The Power Of Attorney/Declaration is also enclosed.

The declaration surcharge fee of \$65.00 and one (1) month extension fee of \$55.00 may be charged to Deposit Account No. 18-0013 in the name of Rader, Fishman & Grauer PLLC. It is believed that no further fees are due with respect to this Response. However, if necessary, any additional fee with respect to this paper may be charged to the same Deposit Account.

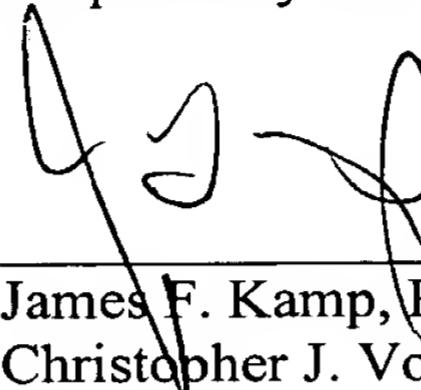
CERTIFICATE OF MAILING

I hereby certify that the enclosed Response To Notice To Filing Missing Parts Application-Filing Date Granted is being deposited with the United States Postal Service, as first class mail, postage prepaid, in an envelope addressed to Box Missing Parts, Commissioner of Patents Washington, D.C. 20231, on this 17th day of January, 2001.


Wendy Balabon

Finally, a copy of the Notice to File Missing Parts is enclosed with this Response.

Respectfully submitted,

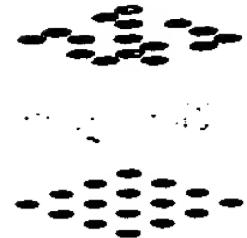


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R0135810



GENOMIC SOLUTIONS

Dr Kevin Auton
NextGen Sciences Ltd.
Building 56
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Alconbury
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Cambridgeshire
PE28 4DA

22 October 2001

Dear Kevin

I write further to Mills & Reeve's letter to Hewitson Becke+Shaw of 28 February 2001 and to our recent telephone conversation.

Having reconsidered that letter I confirm that Genomic Solutions Limited is prepared to take at face value Messrs. Mills & Reeve's comments that you and NextGen's reluctance to provide undertakings should not be interpreted that you and/or it were in breach of the terms set out in the Agreement between you and Genomic Solutions of 9 December 1998.

In view of this confirmation, and without prejudice to the provisions of clauses 21.4 and 21.6 in particular of the above Agreement, I hope you will now feel able to sign, date and return to me the enclosed patent declaration. Perhaps I could ask you to return that to me within the next seven days.

With many thanks for your assistance.

Yours sincerely



Dave Byatt

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email: info@genomicsolutions.co.uk <http://www.genomicsolutions.co.uk>



Dr K A Auton
42 Croftfield Road
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Cambridgeshire
PE18 8ED

11th December 2001

Dear Dr Auton

Please find enclosed a copy of the International Application PCT/GB00/ 00573 filed on February 17, 2000. Also enclosed is a Power of Attorney for your signature. Please recall that you have previously assigned your interest in this application to Genomic Solutions, Inc. In that assignment, you agreed to sign all necessary papers related to the prosecution of this application. We ask that after you have reviewed the application that you sign and return the Power of Attorney in the enclosed mailer.

We will be in touch to confirm your receipt of this letter, application and Power of Attorney.

Thank you for your cooperation in this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read "Dave Byatt".

Dave Byatt
Managing Director
Genomic Solutions Ltd

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